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Current Topics.

The Lord Privy Seal's Rights.

SOME SUGGESTIONS, more or less humorous, have been made that The Right Hon. J. H. THOMAS, M.P., as Lord Privy Seal, has the right, as such, to address the House of Lords from the Woolsack. Especially, Lord DARLING is stated to have found an unrepealed statute of HENRY VIII, which provides that the Lord Privy Seal may take his place upon the "sacks"—presumably the Woolsack. No doubt the reference is to 31 Hen. VIII, c. 10, "For placing of the Lords." By this Act a Lord Privy Seal who happened to be a peer sat on the left of the King in the Lords, above the Dukes. In the case of the holders of certain offices, including that of Lord Privy Seal, not being peers, s. 8 provides that they shall "sit and be placed at the uppermost part of the Sacks, in the midst of the said Parliament Chamber, either there to sit on one Form, or upon the uppermost Sack, the one of them above the other"—no doubt notionally, and not physically. Even giving this Act a hundred per cent. efficiency however, it does not follow that Mr. THOMAS from his place on the Woolsack (which, as all know, is technically outside the House) could address the House. If the Lord Chancellor does so, it is as a Peer, and not by virtue of his office; and, indeed, Sir T. ERSKINE MAY records that, when Sir ROBERT HENLEY was Keeper (i.e., Lord Privy Seal: see "Anson, Law and Custom of the Constitution," 3rd ed., vol. 2, p. 156) and presided in the House of Lords, he could not enter into a debate as a Chancellor being a peer, does, and therefore could not even defend his judgments in the Court of Chancery when the law lords moved to reverse them. In fact, one may say that Mr. THOMAS, under this statute, could do no more than hold a watching brief for the Government. Since his powers are being discussed, however, perhaps we may contribute our mite by drawing attention to 5 Eliz., c. 17, also unrepealed, which gives the Lord Privy Seal "the same or like Place, Authority, Preheminence [*sic*], Jurisdiction of Laws, and all other Customs Commodities and Advantages as the Lord Chancellor of England for the time being lawfully used . . . to all intents, constructions and purposes as if he were Lord Chancellor of England." It may therefore be that Mr. THOMAS has the right to preside over the Chancery Division and sit in the Lord Chancellor's Court in the Law Courts. This, if exercised, would certainly be a springing or shifting use of the worthy Minister.

Correctitude in Forensic Costume.

LAST WEEK Judge TOBIN took occasion to point out that the only thing consistent with the dignity of the law is absolute darkness in apparel. Whether there is any inherent necessity for such a rule may be discutable, but it is certainly in accord with the famous *dictum* of Mr. Justice BYLES, who, observing some divergence from its observance on the part of Mr. J. D. COLERIDGE (afterwards the Lord Chief Justice), said, with the utmost solemnity, "I never listen with any pleasure to the arguments of counsel whose legs are encased in light grey trousers." But a good deal has happened since Mr. Justice BYLES expressed this view, and a greater laxity is observable in the costume of the junior bar, a departure from conventional standards which has not always met with approval from those in authority. Not long ago judicial notice was taken of the light coloured waistcoat which was worn by counsel addressing the Court of Criminal Appeal, who had in consequence to button his coat over the offending garment. While not approving such an infraction of forensic dress, the court apparently turns a blind eye when it is committed by counsel not professionally engaged at the moment. Mr. BIRRELL has told us that one day he observed a barrister duly robed sitting in court in a white waistcoat, apparently oblivious of the fact that whilst thus attired no judge could possibly have heard a word he said; but he adds, that as the particular barrister had nothing to say, the question did not arise. In the matter of costume the Bar is the most conservative of the professions, this being particularly noticeable in the continued use of the wig after it was discarded by the clergy and members of the medical profession.

A Lady Procurator-Fiscal.

FROM A paragraph in our contemporary, the *Scots Law Times*, we learn that Miss PATERSON, daughter of the late Mr. PETER PATERSON, Procurator-Fiscal of Maybole, in Ayrshire, has been appointed to the post in succession to her father, and is thus the first lady Procurator-Fiscal in Scotland. This official has long played a notable part in the administration of the criminal law in Scotland, although he has long ceased to have any direct connexion with revenue matters which gave him the second half of his title. In fact, he is the public prosecutor in the Sheriff Court and in the other inferior tribunals possessing criminal jurisdiction. A prosecution at the instance of a private individual being practically unknown in Scotland, the whole conduct of the proceedings devolves upon the Procurator-Fiscal and is carried out by him at the public expense. The late Mr. CHARLES STEWART, who was for many years a member of a large city firm of solicitors, but who began his professional career at the Scots Bar, never forgot in his interesting volume of reminiscences, "Hand Immemor," to insist, with national complacency, on the superior advantages of the Scots over the English

system of criminal prosecution. The Scots system certainly has worked well under the guidance of the body of Procurators Fiscal in the Sheriff Courts, who are now all appointed by, and are under the control of, the Lord Advocate.

Trial by Jury.

THE WARNING given by Mr. Justice AVORY to the jury at the opening of the *Hatry Case* at the Central Criminal Court that they should not in any circumstances talk with anyone outside about the case was a precautionary measure dictated by a full appreciation of the undesirable but necessary steps that would have to be taken in the event of a breach of their duty in that respect. Quite recently, on the 22nd January, a case was stopped at Nottingham Quarter Sessions and a new trial ordered because a juryman had been seen by a solicitor's clerk to speak to a reporter. The latter, who said that he was a relative of the juryman, denied on oath that the remark had any reference to the case. The Recorder, Mr. H. H. JOY, K.C., however, on the insistence of counsel, ordered a new trial. That a jury should be discharged if one of them speaks about the case with a member of the public during the trial is an obvious necessity in the strict interests of justice (*R.* v. *Shepherd* (1910), 74 J.P. (Journal), 605). Perhaps the most amusing and the most curious case of misconduct of a member of a jury is *R.* v. *Ward* (16 W.R. 281; 17 L.T. 220). During the hearing and whilst a witness was being cross-examined it was noticed that one of the jurymen had, without leave and without it being observed, left the jury-box and also the court-house. The jury were thereupon discharged. The reports are silent on the reason for the juryman's private departure, but it does seem remarkable that such a furtive exit should be possible. In these days the absence of a member of the jury is always quickly noticed and the offender generally reprimanded—Mr. Justice HUMPHREYS recently ordered a woman member of a jury, who arrived fifteen minutes late after the luncheon interval, to sit at the back of the court for the rest of the case, counsel having agreed to continue with eleven members. No doubt, so long as there are juries, misconduct of members will continue in varying degrees, but if a timely warning such as that given by Mr. Justice AVORY were only impressed more frequently there is little doubt that instances of misconduct would be materially diminished and much judicial delay so avoided.

A Legal Classic.

IN ENGLISH legal literature a few works are regarded as authoritative expositions of the law. Among these is Sir MICHAEL FOSTER'S treatise on "Crown Law," which is said to be the last published work to which authority in the exact sense can be ascribed. It might have been thought that BLACKSTONE'S "Commentaries," which first demonstrated that a treatise on law need not be divorced from clarity of style and the choice use of language, would have been admitted within the charmed circle of "books of authority," but we gather that they failed to receive this mark of distinction. The matter, indeed, of inclusion within or exclusion from the circle of "books of authority" is nowadays almost entirely academic, for the courts, in practice, regard no writer as authoritative but look for judicial sanction for each legal proposition which the author advances. This does not mean, however, that all legal treatises are treated with the like indifference. The judges are glad to avail themselves of the labours of text writers who have made a special study of particular subjects, and the care and accuracy with which certain books are prepared receive fitting tribute from the bench as to their utility. Among books thus highly esteemed must certainly be included "Buckley on the Companies Acts," which has now reached its eleventh edition, and in the preparation of which we are glad to observe that a son of the veteran author has had a share. Mr. BURTON BUCKLEY, whom we now know as Lord WRENBURY, had not been long at the Bar before he discovered that the law relating to companies was soon to acquire a special importance in the legal and commercial world, and, accordingly, he brought out an annotated edition of the relevant statutes which was promptly recognised as the most authoritative guide to the subject. The notes were clear and helpful to the practitioner, and it was only fitting that the treatise should bring the author many briefs and pave the way to the bench and eventually to a peerage. The work may therefore be well described as a legal classic.

Copyright in Gramophone Records

THE COURT OF APPEAL in *Boosey & Co. Ltd.* v. *Goodsno Gramophone Co. Ltd.* (74 SOL. J., 89), had to deal with a novel and curious point under the Copyright Act, 1911, and the regulations made thereunder, and one of importance to a section of the musical trade. Under the Copyright Act, 1911, a person is entitled to make and sell gramophone records of copyright musical pieces, provided that he gives notice to the owner of the copyright of his intention, obtains the latter's consent, and pays royalties in the prescribed manner to or for the benefit of the owner of the copyright at the rate fixed by the Act, which is 5 per cent. on the selling price of the record, with a minimum of one halfpenny for each separate musical work reproduced. The manner in which the royalties are to be paid is prescribed by the Copyright Royalty System (Mechanical Musical Instruments) Regulations, 1912, made by the Board of Trade. Under Regulation 4, unless otherwise agreed, the payment of the royalties is to be denoted by adhesive paper labels to be issued by the copyright owner, who must intimate to the maker of the record a convenient place in the United Kingdom where they can be obtained, and to be affixed to the records by the maker before delivery to the public. Until recently the system has worked well, and no difficulty has arisen. Gramophone records are mostly made of vulcanite or something similar, and, if of copyright music, bear gummed paper labels like small postage stamps. The defendants in this action, the Goodson Gramophone Record Company, have commenced to manufacture a cheaper type of record made of thin flexible celluloid, and the plaintiffs claimed an injunction to restrain them from selling records to which adhesive stamps denoting the royalty payable to the plaintiffs had not been affixed. The defendants' reply was that they had tried to affix the labels supplied, but that the ordinary gummed label refused to adhere to their records, at least for anything but a short time. EVE, J., on the hearing of the motion for an injunction, accepted the defendants' contention that the word "adhesive" was a relative term and meant "capable of adhering to any substance that the manufacturer of the record chooses to use," and as he was satisfied that the labels supplied would not adhere permanently to celluloid records, he held that the copyright owners had not complied with the first condition, viz., to supply "adhesive" labels, and dismissed the motion, which by consent was treated as the trial of the action. The Court of Appeal have now reversed this decision. They held that the plaintiffs had supplied "adhesive labels" in the ordinary sense of the words such as had adhered to all kinds of gramophone records made during the past fifteen years, and they were not satisfied that means could not be found by the defendants to compel the labels to adhere to their records. Possibly some method of roughening or otherwise preparing the small section of surface of the record to receive the label would be sufficient, but at any rate the onus was upon the makers of the record to bring themselves within the protection of s. 19 (2) of the Copyright Act, 1911. The court added, however, that there could be no possible suggestion of the defendants having sought to evade the payment of royalty. In fact they offered to pay a lump sum on account of royalties in advance and keep an account of records sold, but this offer was refused.

Parochial Charities.

THE expression "parochial charity" would generally be understood to mean a charity having for its object the promoting of some charitable purpose in a particular parish.

Since the passing of the Local Government Act, 1894, the expression "parochial charity" has a wider meaning, and it now means "a charity the benefits of which are, or the separate distribution of the benefits of which is, confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes."

This statutory definition of the expression "parochial charity," it will be observed, extends the expression to a charity the benefits of which have been, in the case of a single ancient ecclesiastical parish, divided into two or more parishes (not exceeding five), confined to the inhabitants of those parishes, provided the parishes are "neighbouring."

The word "neighbouring" may be construed as equivalent to either "adjacent" or to "adjoining," or even to "near." The better construction would seem to be to construe the word "neighbouring" as "adjoining," although "adjoining" is of itself somewhat ambiguous as it is not necessarily to be restricted to actual contiguity. The degree of proximity, however, is entirely a question of circumstances and the scope and object of the definition must be considered: *Cave* v. *Horsell* [1912] 3 K.B. 533.

The Local Government Act, 1894, divides charities having for their object the benefit of the inhabitants of a parish into two classes, viz., parochial and ecclesiastical.

By the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 5, the expression "parish" in every Act passed before or after the commencement of that Act, unless the contrary appears, means "a place for which a separate poor rate is or can be made or for which a separate overseer is or can be appointed."

The Local Government Act, 1888 (51 & 52 Vict., c. 41), s. 100, also contained a definition of "parish" somewhat similar, but that definition does not apply to the Local Government Act, 1894 (see s. 57, sub-s. (1)). Apart from statutory definition, "parish" means the ecclesiastical parish, i.e., the whole parish and parish proper: *In re Sandbach School and Almshouse Foundation* [1901] 2 Ch. 317.

A trust for the benefit of the inhabitants of a parish or for any particular class of such inhabitants is *primâ facie* a "parochial" charity: it may also be an "ecclesiastical" charity, but to be "ecclesiastical" and not "parochial" within the meaning of the Local Government Act, 1894, the benefits of the charity must, by the instrument creating the trust, be confined to those inhabitants who are members of a particular church or denomination, *as such*: *In re Ross's Charity* [1899] 1 Ch. 21.

From the date at which the Local Government Act, 1894, came into operation (i.e., 5th March, 1894), the legal interest in all property belonging to parochial charities, other than ecclesiastical, then vested either in the overseers or in the churchwardens and overseers of a rural parish, was vested in the parish council subject to the trusts and liabilities affecting the same (see s. 5 (2) (*c*)). Thus an allotment of land under an Inclosure Act to the churchwardens and overseers of a parish in trust for the occupiers of certain ancient cottages in the parish to get turf therefrom, vested the legal estate in the land in the churchwardens and overseers: *Simcoe* v. *Pethwick* [1898] 2 Q.B. 555; and the effect of s. 5 (2) (*c*) was the transfer of the legal estate in the allotted land to the parish council, the trust, although limited to but few of the inhabitants, being of a charitable nature (see *Goodman* v. *Mayor of Saltash*, 7 App. Cas. 633). The Act also transferred to parish councils (and in rural parishes not having a separate parish council, to parish meetings) the powers, duties and liabilities of the *vestry* of a rural parish, as related to parochial charities (other than ecclesiastical). The powers, duties and liabilities so transferred included the right of selecting new trustees in the absence of any directions in the instrument creating the trust: *Attorney-General* v. *Dalton*, 13 Beav. 141 (see s. 14, sub-s. (4)); the right to the custody of all documents, etc., relating to the parochial charities (other than ecclesiastical (s. 17, sub-s.(8)) and as regards parish meetings, the right of parish meetings to have submitted to them annual accounts of the parochial charities, not being ecclesiastical, which by s. 44 of the Charitable Trusts Amendment Act, 1855, trustees or administrators must transmit to the Charity Commissioners. Consequently where charity property is vested by the Act in parish councils, the duty of submitting annual accounts to the Charity Commissioners, and in the case of educational charities, the Board of Education, under s. 44 of the Charitable Trusts Amendment Act, 1855, is now performed by the parish councils, and where a rural parish has not a parish council, by the parish meeting (s. 19, sub-s. (4)). The Local Government Act, 1894, s. 6, sub-s. (1) (*b*), exempts from transfer to parish councils the powers, duties and liabilities of the churchwardens of rural parishes, so far as they relate to charities, whether parochial or ecclesiastical, and the legal interest in all property vested in them alone for parochial charities was not transferred (see s. 5, sub-s. (2) (*c*)).

In cases where churchwardens *as such* were trustees of any parochial charity, other than ecclesiastical, jointly with overseers of a rural parish *as such*, parish councils may appoint trustees not exceeding the number of the overseers trustees (s. 14, sub-s. (2)), but the fact that churchwardens alone are named in an instrument of trust creating a non-ecclesiastical charity does not affect the power of the parish council to appoint trustees in the place of the churchwardens: *In re Ross's Charity* [1899] 1 Ch. 21.

Parish councils have also power to appoint additional trustees of a parochial charity (other than ecclesiastical) founded over forty years from the passing of the Act, or if founded before by a donor living at the passing of the Act, until the expiration of forty years from the passing of the Act where the governing body does not include any persons elected by the ratepayers or parochial electors or inhabitants of the parish, or appointed by the parish council or parish meeting, but the number so appointed must not exceed the number allowed by the Charity Commissioners, and where such charity is vested in a sole trustee the number of trustees may—with the approval of the Charity Commissioners—be increased to three, one of whom may be nominated by such sole trustee and one by the parish council or parish meeting (s. 14, sub-s. (3)). Where the parochial charity is for educational purposes the appointment of trustees under the above s. 14, sub-s. (3), must be approved by the Board of Education and not by the Charity Commissioners (see Board of Education Act, 1899, and Orders in Council made thereunder). Where a rural parish has no separate parish council, and the governing body of a parochial charity does not include any persons elected by the ratepayers or parochial electors or inhabitants or appointed by the parish council or parish meeting, additional trustees cannot be appointed by the parish meeting except where a special power of appointing additional trustees was vested in a "vestry" so as to provide for the representation of a parish on the governing body of the parochial charity; this special power would be exercisable by the parish meeting by virtue of s. 19, sub-s. (4), of the Act, and under the provisions of that sub-section a parish meeting may, where the charity is vested in a sole trustee, nominate a trustee to act with such sole trustee and the person nominated by such sole trustee.

As regards parochial charities in urban districts, s. 33 (1) provides that the Local Government Board (now the Ministry of Health: see 9 & 10 Geo. V, c. 21) may, on the application of the council of any municipal borough, including a county borough, or of any other urban district, make an order conferring on that council *or some other representative body*

within the borough the powers, duties or liabilities of a parish council.

Under this section, sub-s. (1), the Ministry of Health may, after consultation with the Charity Commissioners or Board of Education (as the case may be) (see sub-s. (7)), confer the powers, duties and liabilities of parish councils in connexion with the parochial charities upon any representative body within the borough, and by sub-s. (2) the Ministry of Health may, where it appears that by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council of the borough or district, be properly represented on that body, by their order provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish.

The provisions of s. 33, respecting councils of urban districts, apply to the administrative County of London in like manner as if the district of each sanitary authority in that county were an urban district and the sanitary authority were the council of that district (see sub-s. (6)).

As regards the parochial charities of the City of London, the management of these charities has been provided for by the City of London Parochial Charities Act, 1883 (46 & 47 Vict., c. 36), under which the Charity Commissioners have power to exercise any of the powers vested in them by the Charitable Trusts Acts as regards charities of the City of London to which the Act of 1883 applied, and more particularly to frame schemes providing for the administration and management of the property of such charities by the new governing body called into existence by the Act.

By the Welsh Church Act, 1914 (4 & 5 Geo. V, c. 91), s. 25, the powers, duties and liabilities of vestries and churchwardens of every borough and urban district in Wales and Monmouthshire were transferred to the councils except (*inter alia*) their powers, duties and liabilities so far as they relate to charities, but nothing in s. 25 affects any order which may be made by the Ministry of Health under s. 33 of the Local Government Act, 1894.

Under the provisions of the Charitable Trusts Act of 1853, s. 61, trustees or persons acting in the administration of *every* charity, unless exempted by s. 62 of the Act, are compelled to keep "full and true accounts of all moneys received and paid respectively on account of such charity," and under s. 44 of the Charitable Trusts Amendment Act, 1855, trustees or administrators of *every* charity (unless exempted by s. 62 of the Act of 1853) are bound on or before the 25th day of March in *every* year, or such other day as may be fixed for that purpose by the Charity Commissioners, or as may have been already fixed for rendering the accounts required by the Act of 1853, to prepare and transmit a copy of the accounts to which the section refers to the Charity Commissioners, or, in the case of an educational charity, to the Board of Education (see Board of Education Act, 1899). Where the charity is parochial, a further copy "to the churchwarden or churchwardens of the parish or parishes with which the objects of such charities are identified who shall present the same at the next general meeting of the vestry of such parishes and insert a copy thereof in the minutes of the vestry book."

The annual accounts of parochial charities (not being ecclesiastical charities), by virtue of sub-s. (6) of s. 14 of the Local Government Act, 1894, whether exempted or not from the jurisdiction conferred on the Charity Commissioners or Board of Education (as the case may be), are now to be transmitted by the trustees or administrators to the chairman of the parish meeting of the parish interested, and be presented by him at the next assembly of the parish meeting and entered in the minute book.

The annual accounts of parochial charities which are ecclesiastical, being exempted from the operation of s. 14, sub-s. (6), are transmitted to the Charity Commissioners, or, in the case of educational charities, the Board of Education, in accordance with the provisions of s. 44 of the Charitable Trusts Amendment Act, 1855, unless exempted from the jurisdiction thereby conferred.

Schemes relating to parochial charities, not being ecclesiastical, which affect rural parishes, must "on or before the publication of the notice of the proposal to make an order for such scheme," in accordance with s. 6 of the Charitable Trusts Act, 1860, be communicated to the council of the parish, and where there is no parish council, to the chairman of the parish meeting, and in the case of a council, the council may, subject to the provisions of the Local Government Act, 1894, with respect to restrictions on expenditure and to the consent of the parish meeting, either support or oppose the scheme, and for that purpose have the same right as any inhabitants of a place directly affected by the scheme (see s. 14, sub-s. (5), of the Local Government Act, 1894).

This provision does not affect the jurisdiction of the Charity Commissioners, and, in the case of educational charities, the Board of Education, to make a scheme: *In re Berkhamsted Grammar School* [1908] 2 Ch. 25.

Company Law and Practice.

XV.

LAST week certain aspects of the new law relating to the re-construction and amalgamation of companies were dealt with, but there are yet further provisions which may be considered in this column with advantage.

The Greene Committee's report (at p. 43) refers to amalgamations where it is necessary that the concern which is, in substance, being taken over should be kept alive, and the amalgamation carried through by a transfer of shares and not by a sale of assets. As instances of this are given the case where it is necessary to preserve the goodwill associated with the name of the company taken over, and the case where part of the property cannot be assigned, as, e.g., where the company to be absorbed owns a licence to utilise a patent assignable only with a consent which cannot be obtained. In such cases, and many others as well, the purchasing company may want to acquire all the share capital of the company to be absorbed, and may even make such acquisition a condition precedent to the deal going through.

Where one or two shareholders refuse to fall into line with the majority, a whole scheme of this nature may be wrecked, a result which, in some circumstances, the report describes as being, in effect, an oppression of the majority by a minority; and it is to deal with such a situation that s. 155 has been passed.

The sidenote to the section gives a key to its scope—"Power to acquire shares of shareholders dissenting from scheme or contract approved by majority." The various steps necessary under the section may be taken in order. First, there must be some scheme or contract involving an offer for shares or any class of shares in a company made by some other company, called the transferee company. Unlike the companies to which s. 154 applies, the transferee company in s. 155 need not be a company within the meaning of the Act, and is apparently wider in its scope than the companies to which s. 153 applies, which are companies liable to be wound up under the Act, as to which see ss. 337 to 342; for instance, though a foreign company cannot be wound up under Pt. X of the Companies Act, 1929 (s. 337 (3)), there is nothing in s. 155 to suggest that a transferee company cannot be a foreign company.

Second, this offer must be accepted and the scheme or contract approved by the holders of not less than nine-tenths

in value of the shares affected within four months after the offer has been made by the transferee company.

If and when these two steps have been complied with, the transferee company may, at any time within two months after the expiration of the four months period previously referred to, that is to say, within six months of the making of the offer, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares. Included among the persons to whom such notice may be given are shareholders who have not assented to the scheme or contract, and shareholders who have failed or refused to transfer their shares to the transferee company in accordance with the scheme or contract.

The form of notice which is to be given is Form No. 100 of the Companies (Forms) Order, 1929: "prescribed" being defined in s. 380 for this purpose as meaning "prescribed by the Board of Trade." The use of this form is confirmed by the Companies (Forms) No. 2 Order, 1929 ([1929] W.N. 311), which also gives directions as to service of it on the dissenting shareholder. Put shortly, the contents of the notice are, recitals of the offer for the shares or class of shares and its acceptance by the requisite ninety per cent. in value, a formal notice that the transferee company desires to acquire the shares, and that the person served may apply to the court for relief, with a warning as to the effect of not applying.

The dissenting shareholder may then apply to the court within one month from the date on which the notice was given, and the court may, if it thinks fit, give him relief, but if this be not done, the transferee company is then bound to acquire the shares the subject of the notice on the terms of the scheme or contract. The point which a transferee company must bear in mind in this connexion is that time is very much of the essence of this proceeding, and that it has not got an undue allowance of this precious commodity under the section. To take a case where the scheme is only finally approved almost at the expiration of the period of four months, the transferee company must give any requisite notice within a further two months: it is true to say that, as regards shareholders who have never come into the scheme, no difficulty arises as to this, but shareholders who fail or refuse to transfer their shares are not such an easy question.

It is by no means always an easy thing to obtain the requisite execution of transfers (or, indeed, any other documents) at the moment when they are wanted, and a transferee company, secure in the knowledge that a particular shareholder approved the scheme, may not like to trouble him unduly to execute a transfer; or he may have gone abroad since the approval of the scheme. But if it is desired to fall back on the provisions allowing the transferee company to give notice, it must be remembered that there is a time limit imposed by the section, and that the benefit of it will be lost unless it is observed.

(*To be continued.*)

A Conveyancer's Diary.

Forms of Assent.

A letter to the editor from "E.S.W." appeared in last week's issue, in which two points were raised with which I have been asked to deal to-day.

The first point involves the question whether executors can insist, when assenting to a devise of freehold property, subject to restrictive covenants, or a bequest of long leaseholds, on the beneficiary entering into covenants of indemnity in respect of the restrictive covenants in the one case and of the covenants in the lease in the other.

I think that the answer to this question depends upon whether the testator's estate remains liable after his death.

In the case of restrictive covenants effecting freeholds, that will be so if the testator was himself the original covenantor or has entered into covenants to perform the restrictions and to indemnify his predecessor in title, unless the liability is limited to the period during which he is the owner. It often happens that such covenants are framed so as not to impose any liability on the covenantor after parting with the land, and if that is the form of the covenants there is nothing against which the testator's estate requires indemnification.

With regard to leasehold property, the same considerations apply. If the testator were the original lessee or an assignee who has entered into a covenant of indemnity with his assignor the executor may, and, I think, should, require the legatee to enter into a similar covenant with him for the benefit of the estate of the testator. I do not see why an executor cannot require from a beneficiary covenants to which he would have been entitled from a purchaser before 1926 and are now implied on the part of a purchaser by s. 77 (1) of the L.P.A., 1925. I agree, however, that such covenants are not now necessary for the protection of an executor who is protected by s. 26 of the T.A., 1925.

The form to which "E.S.W." refers (No. 3, p. 841, Prideaux III) is, after all, not lengthy and would involve little more expense than a simple assent in the statutory form. I think that no exception can be taken to it.

An advertisement for claims under s. 27 of the T.A., 1925, would not afford any protection to the estate of the testator, and it is at least doubtful whether it would protect the executor, who must be deemed to be aware of the liability. Such advertisements are no protection against liabilities of which executors have notice (*Re Credit Land of Ireland* (1872), 21 W.R. 135).

The second point raised by "E.S.W." relates to the costs of an assent.

He mentions a case where property had been conveyed to a testator by a meagre description, and was by him devised in separate parcels to several persons. It was necessary to attach plans to the assents to the various devisees in order to distinguish between the portions of the property taken by each and he thinks that the costs of the assents should have been borne by the devisees. In support of this he refers to *Re Pix* [1901] W.N. 165, in which it was held that a devisee cannot cannot require an assent to describe the land devised in more precise terms than those comprised in the will.

I think that in such a case the additional expense involved in the more elaborate description and plans should be borne by the beneficiaries.

At the end of his second question "E.S.W." says: "In passing, why, when the draftsman means 'shall' does he persist in saying 'may'?" It seems evident that reference is made to the commencement of s. 36 (1) of the A.E.A., 1925—'A personal representative may assent," etc.

I am afraid that in this instance "E.S.W." falls foul of the draftsman without just cause. In that place "may" does not mean "shall."

An assent is an alternative method of vesting the property in the devisee, but is not made obligatory; a conveyance in the ordinary form may still be used if desired. Of course, an assent will generally be adopted as a means of vesting the property if for no other reason than that as such it does not require to be stamped, but a conveyance is equally effective.

I think that this appears plainly from sub-ss. (5) and (6) of s. 36, in both of which the expression "an assent or conveyance" is used.

Dower.

I notice that an eminent conveyancer "J.M.L." who writes the weekly conveyancing article in *The Law Journal*, expresses the view that Mr. Farrer is right in the contentions which he advanced in his learned and interesting article on this subject which appeared in last week's SOLICITORS' JOURNAL.

There seems to be no doubt at all that it was the intention of the legislature to abolish dower altogether, but it appears that the Act has failed expressly to give effect to that intention

except, curiously enough, in respect of property as to which an estate owner dies intestate.

The editor has just sent me a copy of a letter from Dr. R. A. Eastwood, of Manchester, which contains a very interesting argument against Mr. Farrer's view. I must reserve my comments for a future issue.

I should think that most conveyancers will proceed upon an assumption that dower has really been abolished, relying upon an amending Act being passed putting the question beyond doubt if necessary.

Landlord and Tenant Notebook.

Is a Tenant obliged to accept a New Lease under Landlord and Tenant Act, 1927?

Among some of the difficult problems raised by the Landlord and Tenant Act, 1927, is the question whether a tenant who has applied to the tribunal for a new lease, and has been successful in his application, is under any obligation to take up the new lease.

There may be various reasons for the tenant's unwillingness to accept the new lease, but the most likely reason would in most cases be the fact that the tribunal had assessed the rental to be paid under the new lease at too high a figure.

In such a case, can the tenant, after obtaining his order from the tribunal, object to accept his new lease, and be entitled to leave the premises at the termination of his current tenancy?

In some cases, of course, no legal question would arise, because the landlord would be desirous of obtaining vacant possession, but in other cases it may not be a very easy matter for the landlord to obtain, at any rate almost immediately, another tenant, who would be willing to pay the rent fixed by the tribunal.

If the tenant has a right to accept or reject the new lease ordered by the tribunal, then it is clear that, in the majority of cases, the landlord may suffer a severe hardship.

Take the matter of costs first. Under the Act and the Rules (see O. 50 B, r. 32 (1)) costs are in the discretion of the tribunal, and it is not uncommon in cases in which the tenant has succeeded in his application for a new lease for the tribunal to order each party to pay its own costs.

It seems unreasonable therefore that a tenant should be in the position of making a landlord incur a great deal of expenditure in the way of costs to no purpose whatever.

Then again, as has already been pointed out, the order of the tribunal granting a new lease may in many cases be an order virtually for the benefit of the landlord as well, since if it is binding on the tenant, the landlord would be provided with a tenant at a fair and proper rental.

It would seem proper where a new lease is ordered, that the order of the tribunal should be binding, not only on the landlord, but also on the tenant.

From a consideration of the Act, however, it is difficult to say whether an order of the tribunal would necessarily have this effect.

The material provisions of the Act are sub-ss. (1) and (2) of s. 5. Sub-section (1), so far as relevant, provides that the tenant "may in lieu of claiming compensation at any time within the period allowed for making a claim (for compensation) serve on the landlord notice requiring a new lease of the premises . . . " and by sub-s. (2) "the tribunal on application being made for the purpose either by the landlord or the tenant . . . may if it considers that the grant of the new tenancy is in all the circumstances reasonable, order the grant of a new tenancy for such period (being a term of years absolute) not exceeding fourteen years *and on such terms as the tribunal may determine to be proper* . . . "

It may be said, of course, that the tribunal, when granting a new lease might, by virtue of the italicised words (*supra*), order that the tenant shall be bound to accept the new lease, and in that event it would be incumbent on the landlord to ask the tribunal to make the order for a new lease in such terms.

On a careful examination of sub-s. (2) of s. 5, however, it would seem that the above words cannot be construed in this manner so as to empower the tribunal to compel the tenant to accept the new lease, since all they seem to refer to are the terms and conditions relating to the lease itself, and not the terms and conditions on which the *order* for the lease may be made.

On the other hand, sub-s. (2) of s. 5 empowers a landlord to take the initiative and to make an application to the tribunal with regard to the granting of a new lease in cases where the tenant himself has asked for a new lease in the first place by serving the requisite notice for a new lease on the landlord. It is submitted, however, that where a new lease is ordered by the tribunal on the landlord's application there is nothing in the Act to show that the tenant would be compelled to accept the lease; and, indeed, the conferring of such a power on the tribunal in such circumstances would be unreasonable since a tenant may very well change his mind as to continuing in occupation of the premises at the end of his current tenancy in the interval between the date of his notice and the date when the application has to be made; and, after all, the commencement of the proceedings is not the service of the notice, but the making of the application.

One can only await with interest the view which the courts will ultimately take of this difficult question.

Our County Court Letter.

THE LIABILITIES OF HAIRDRESSERS.

Problems concerning the above often resolve themselves into a question as to the onus of proof, as in the recent case of *Clarke* v. *Maison Arthur (Birmingham) Limited*, at Birmingham County Court. The plaintiff claimed £100, as damages for negligence, on the grounds that the assistant (being in a hurry) had (*a*) pulled some clippers from her pocket; (*b*) failed to sterilise the instrument; (*c*) cut the plaintiff's neck while trimming; (*d*) burned the plaintiff's neck while waving with tongs that were too hot. The plaintiff had afterwards suffered from septic poisoning, and had had an operation for carbuncle on the neck, but the defendants denied negligence. Their case was that the plaintiff made no complaint about the clippers tugging, or the tongs being too hot, and that the same afternoon the plaintiff had gone to a cricket match, where she was stung by a wasp. Corroborative evidence was given by witnesses, who disclaimed any interest in the parties, but—on hearing of the action—had volunteered information that the plaintiff herself had attributed her injury to an insect bite. On behalf of the plaintiff, a fixture list and scoring book were produced, showing that the club had no match on the day in question. His Honour Judge Dyer, K.C., observed that the medical evidence was not decisive, and—while the plaintiff's evidence was difficult to accept—the lady assistant had given a reasonable account, and there was also evidence that the plaintiff had admitted being stung. Judgment was therefore given for the defendants with costs. Compare the County Court Letters entitled "Hairdressers' Negligence," in our issues of the 9th and 16th March, 1929, 73 Sol. J. 153 and 169, and the recent case of *Sutton* v. *Harrhy*, at Cardiff County Court. In the last-mentioned case, the plaintiff had complained four times of burning during a permanent wave, and her doctor stated that she still had much pain and would be permanently scarred. The defendant denied the complaints, although the plaintiff had been asked to say if she

felt too hot, but judgment was given for the plaintiff for £100 and costs.

The above subject was recently considered in the High Court in *Bowden* v. *Lisgarten and Castle*, in which the plaintiff claimed damages for a bald spot caused by burning during a permanent wave. The defendants were the owner of the business and the operator respectively, and there was the usual conflict of evidence as to the time and nature of the complaints. The defence was that (1) electricity was not used, and heat could not reach the head, as the secret of the permanent wave was the generation of heat and steam by the addition of water to lime in the metal caps on the head; (2) the injuries were due to the plaintiff curling her own hair at home. There were also separate defences, viz., (*a*) Lisgarten had no control over Castle, who had a cubicle at week-ends only, and paid over half his fees, but (*b*) Castle denied any such arrangement, and contended that (i) he was not responsible for either the packing or heating involved in the process, and also (ii) the other defendant's daughter had attended the plaintiff, besides himself. The common jury awarded the plaintiff £125 and £21 5s. special damage against the first defendant, but found that the second defendant had not been negligent, and Mr. Justice Talbot entered judgment accordingly.

Practice Notes.

THE DISTINCTION BETWEEN PASTURE AND ARABLE LAND.

THE weakness of arbitration, as a means of evolving a legal principle, is shown by the recent case of *Aikman* v. *Willis* at Coventry County Court. The arbitrator had been appointed to fix the rent as from the 25th March, 1930, and a question had arisen as to whether 42 acres, which had been seeded down by the respondent (the tenant) or his father, were pasture or arable. The case for the applicant (the landlord) had been that a new tenancy was created, and the arbitrator had been asked to state alternative rents according to the category in which he placed the land. Witnesses had been available as to the rents of similar farms in the district, but the arbitrator had refused to admit their evidence, and had fixed the rent on the basis that the land was arable. The landlord therefore applied to set aside the award, but the respondent's case was that no question had arisen as to alternative rents, as it had been left to the arbitrator to fix one amount, according to whether the land was pasture or arable. His Honour Judge Drucquer accepted the affidavit evidence of the arbitrator, who had also taken a very careful note. It was therefore held that (1) no application had been made for a statement of alternative rents, as the nature of the land (and also the rent) had been left for the decision of the arbitrator; (2) there had been no refusal to admit evidence of the rent of similar farms, as this would have involved an inspection, and the arbitrator's offer to make an inspection had not been accepted on behalf of the landlord. The award was therefore upheld, with costs in favour of the respondent. Compare "The Definition of Temporary Pasture" in our issue of the 11th January, 1930 (74 SOL. J. 23).

THE DEFINITION OF ARBITRATORS' MISCONDUCT.

THE fallacy that arbitration is cheap and expeditious is exposed by the case of *Mead King* v. *Lloyd*, at Shrewsbury County Court, in which the landlord recently applied to set aside the award on the ground of misconduct. The arbitrator had written directly to the applicant (instead of to his solicitor) stating that he would issue his award on the existing evidence, unless he heard to the contrary within four days. The applicant denied having received the letter, and his case was that (1) the arbitrator, instead of publishing his award in favour of the tenants, should have considered a fresh point about temporary pasture, (2) the award was bad, as the landlord was first ordered to pay the costs, but an addendum ordered each party to pay their own. His Honour Judge Ivor Bowen, K.C., stated that the arbitrator was a man of experience, integrity and capacity, against whom a serious charge had been made. No notice had been given, however, to cross-examine the arbitrator on his affidavit, in which he swore that he sent a letter to the landlord, nor had any affidavit been filed in reply, or any oral evidence given. His Honour found that (1) the letter was posted, (2) the writer had done everything a prudent arbitrator could do, and (3) the award was good. The application was therefore dismissed, with costs on the highest scale in favour of the arbitrator and the tenants, leave to appeal being given. The previous history of this contest is set out under the title "The Definition of Temporary Pasture" in our issue of the 11th January, 1930 (74 SOL. J. 23).

Reviews.

The British Year Book of International Law, 1929. London: Humphrey Milford. 18s.

No international lawyer can do without the Year Book. It is one of the essential pieces of apparatus for keeping up to date.

With the growing volume, and the steady approximation to true law, of the regulations for world society, it is increasingly difficult to manage a comprehensive view, and a tendency to specialisation is apparent. This has advantages and disadvantages. The latter will be minimised for those who, while making a profounder study of one branch, yet keep in touch with the others. A glance at the contents of the title page of this volume shows how their task is facilitated by the Year Book.

The notes of case law contained in the decisions both of international and national courts here reported are of the greatest practical use. The bibliography is indispensable.

The Legal Effects of Recognition in International Law. By JOHN G. HERVEY. London: Humphrey Milford. 12s. 6d.

This is an excellent American study of a question which has troubled the courts very much since the war, owing to the Russian Soviet State being a bad misfit in the existing world system, and denied recognition by several other important States.

The object of the present work, in which are considered both the American and English cases, is "to determine critically the correctness or incorrectness of the positions assumed by the courts, with a view toward furnishing a guide for future use in the determination of such cases and controversies."

The critical examination is well done, and brings out clearly certain principles and tendencies to crystallization of doctrine which have become apparent. The guide will be welcome to those who have to find their way in a specially intricate branch of international law.

We are glad to see that our own contributions to the subject are noted, particularly in connection with the legal effects of the withdrawal of diplomatic relations upon the doctrine of retro-activity of recognition (see 71 SOL. J., pp. 504, 505).

Books Received.

How to Appeal against your Rates. Vol. II (within the Metropolis). With Appendices of Forms and Notices required to be Served. A. STANLEY EAMER, F.S.I. 1930. Crown 8vo. pp. ix and (with Index) 84. London: Sir Isaac Pitman & Sons, Ltd. 3s. 6d. net.

National University Law Review. Vol. X. No. 1. January, 1930. National University Law School, Washington D.C. 75c. per number.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Settlement—Discretionary Trusts—Power to Control Discretion—Bankruptcy.

Q. 1834. A client proposes to execute a voluntary settlement and to create a discretionary trust for the benefit of himself and his wife and children to be paid to one or more of the members of such class to the exclusion of the other or others as the trustees may think fit. It is proposed to appoint a trust corporation as the sole trustee in the first instance, but to give the settlor power to appoint new trustees during his life. The settlement is also to contain a clause whereby the majority of the trustees can overrule the decision of the minority on any point which may arise in the administration of the trust fund. The settlor would thus, by creating new trustees, if necessary, secure that the trustees in the exercise of their discretion would pay him the income during his life. Some doubt is felt as to the validity of the settlement in this case, as the effect of the power to appoint new trustees vested in the settlor, would enable him to defeat the discretionary trust, and it is conceived that the power of appointment of new trustees would in the event of the settlor's bankruptcy pass to the trustee in bankruptcy. I shall be glad of your opinion as to (*a*) whether the power of appointment of new trustees would pass to the settlor's trustee in bankruptcy, and (*b*) whether the settlement is open to objection on any other grounds. I would draw your attention to the cases of *Hardaker* v. *Moorhouse*, 26 Ch.D. 417, and *Re Beddingfield and Herring's Contract* [1893] 2 Ch. 332.

A. (*a*) We doubt whether the power would pass to the trustee as it is not in or over or in respect of property, and the settlor would be at the mercy of his appointees.

(*b*) We do not think so. It is suggested, however, that it would be well (for the protection of our subscribers) to have so novel a document "settled" by counsel.

Mortgage of Freeholds—Payment off Prior to 1926, but no Reconveyance—Position.

Q. 1835. A died in 1910, having by his will devised all his real and personal estate to his two sons, B and C, whom he appointed executors and trustees, upon trust for sale and to divide the proceeds between B and C in equal shares. The estate was only a small one, being valued for probate at £296. At the date of testator's death the bulk of the estate consisted of two small houses, which were subject to a mortgage of £100. The sons repaid the mortgage money in July, 1917, and obtained a receipt from the mortgagee for the same, and he returned the title deeds to them, but no reconveyance of the mortgaged property was made. The original mortgagee has since died. B and C now desire to take the two small houses as realty, and conveyances have been drafted by which the trustees convey one house to each son, and the absence of a reconveyance has just been discovered. Having regard to the fact that upwards of twelve years have elapsed since the mortgage money was repaid, it would appear that the title of the mortgagee and his representatives is absolutely barred, and that the property is vested in B and C as trustees of the will of their father without any formal reconveyance (see *Kibble* v. *Fairthorne* [1895], 1 Ch. 219). It should, however, be stated that the property in question is situate in the West Riding of Yorkshire. Under the circumstances, can the trustees of A's will give good conveyances to the beneficiaries without obtaining a reconveyance of the bare outstanding legal estate (if any) from the personal representatives of the deceased mortgagee?

A. The legal estate was got in by L.P.A., 1925, Sched. I, Pt. II, paras. 3 and 6 (*d*).

No action, therefore, is obligatory, provided a receipt capable of production as evidence of the payment and the date of payment exists. If no such receipt exists, evidence of the payment and the date thereof must be obtained, e.g., by way of a statutory declaration.

Registration—Absolute Title—Boundary Fences.

Q. 1836. A client (A) has a large estate in Middlesex. A field adjoining his estate has been recently developed for building. The owner of a house adjoining A's estate has filled in a ditch belonging to A. On being called upon to remove the soil he replies that he has registered an absolute title to it. How can we obtain an inspection of the register to verify this? Assuming it is correct, is the title so "absolute" as to obtain possession and ownership of another person's land?

A. The register can be inspected with the written authority of the registered proprietor or his solicitors. See that the authority gives the registered number and parish. If authority is refused the registrar can allow an inspection if the circumstances are explained to him. Unless the register states that the ditch, which it is presumed was a ditch alongside a hedge between the two properties, is included in the registered land, A may commence an action against the adjoining owner without regard to registration. Rule 278 provides that except where an indication of ownership is made in the register, the filed plan only indicates the *general boundaries* and leaves undetermined the question whether the boundary includes a hedge and ditch. It is quite unlikely that the register does state that the ditch is included, as the registrar would hardly be likely to have such a statement entered on first registration without notice to A. If such a statement does appear A can probably get the register rectified (see Land Registration Act, 1925, s. 82).

Co-Owners—Death of One before 1926 Leaving Share to Other—Title.

Q. 1837. In 1917 leasehold property was assigned to A and B as tenants in common for the residue of the term granted by the lease. A died on the 14th March, 1921, having duly made his last will dated the 10th February, 1921, whereby he appointed B to be his sole executor. A's will was proved on the 26th April, 1929, by B. B now desires to know whether he can dispose of the property without appointing another trustee to act with him. Can this be done?

A. We are not told whether B was beneficially entitled under A's will. If he was so entitled, on the assumption that his duties as executor had terminated before 1926 and that he had before that date commenced beneficial enjoyment, no difficulty arises, as he was absolutely entitled to the whole property on the 1st January, 1926.

If, on the other hand, he was not beneficially entitled, it would appear that L.P.A., 1925, Sched. I, Pt. IV, para. 1 (4), applied, and that the legal estate is now in the Public Trustee, who must be ousted by the appointment by B, who is interested in more than an individual moiety (*Re Cliff Contract*, 71 Sol. J. 389), of two trustees in his place. It would be prudent for the appointment to be so framed that B appoints himself and another, and so that the appointment will be properly effected if our view of the transitional provisions of L.P.A., 1925, is incorrect and the legal estate in the entirety vested in B, and not in the Public Trustee, upon the statutory trusts.

Correspondence.

Police Evidence.

Sir,—I am glad to see Mr. Sibley's letter (though, by the way, he seems to think that *R.* v. *Pook* and the *Eltham Murder Case* are different cases—they are one), because there is something analogous in our system, viz.: notice of "further evidence" between committal and trial in the form of the witness's proof. As, of course, it is unsworn, there is no guarantee of it's truth, and it is said—I cannot vouch for it—especially in Ireland—that it has sometimes contained matter which has caused the accused to confess. At any rate, it lends itself to the trick of someone trying to save himself.

Temple, E.C.4. H. C.
3rd February.

The Training of an Articled Clerk.

Sir,—As a recently admitted solicitor, I heartily endorse your correspondent's views on "The Training of an Articled Clerk."

The training of many articled clerks to-day does leave much to be desired, for, from whatever motive, many principals do neglect their articled clerks, or else continue to give them very elementary work long after they should have started on something more advanced.

May I offer two suggestions.

(1) That, after a period of "shaking down" the articled clerk should be given a place in the room of the principal or of a managing clerk. Only a very small proportion of clients would object to his presence there when transacting business, and even if the articled one had to go out of the room on occasions, he would still have the valuable experience of listening to the "great man's" dictation, and handling of his work. In this way he would soon acquire a grasp of his methods.

(2) Walpole said that "Every man has his price." This is none the less true of articled clerks. While I am not in any circumstances advocating a return of premium, I suggest that the articled one's enthusiasm for his work would be very considerably heightened by participation in those bursts of bounty which occur in most offices at Christmas and holiday time. At present there is very little to encourage most articled clerks to work hard.

Your contributor has convincingly set out the position as to advocacy, which at present is an impossible ideal for articled clerks, even though debating societies help to some extent. I understand that some years ago it was a practice for managing clerks to appear before some county court registrars. Could this practice be extended to articled clerks who have, say, passed their intermediate examination?

The present position of articled clerks generally is somewhat regrettable. The articled clerk is apt to be regarded as the best joke of the legal profession, and though he may not regard this with hostility during his articled days, the joke is sometimes made to appear somewhat thin when the time comes for him to cast up the debits and credits of his articles and to look around for a job.

3rd February. Ex-Articled Clerk.

Law of Domicil.

Sir,—With reference to the letter of Messrs. Barclay, Baerlein & Mordan in your current number, I wonder whether they can throw any light on a point which has always puzzled me. Have the French courts had their attention called to the fact that there is no such thing as English nationality, but only British nationality, and no such thing as British law of divorce or testamentary succession but only English, Scottish, Quebec, Jersey, South African law, and so forth? And if their attention has been called to this, how do they solve the problems which arise? In particular, does the judgment of the Court of Appeal of Douai show why English law was applied rather than any other British system of law?

London. Francis Terry.
3rd February.

Company Law and Practice.

Sir,—The writer of the twelfth article, which deals fully with *Re Wilts & Somerset Farmers Ltd.* [1929] 1 Ch., and *Biddulph and Agricultural Wholesale Society Ltd.* [1927] A.C., was probably unaware that the former case was heard before the House of Lords in December last, and we are expecting their reserved judgment at any time now.

The Court of Appeal decision in the case may, therefore, not stand, and in any case they will deal fully with the law, both as regards this and the *Biddulph Case*, which is very much interwoven with it.

We thought your contributor would be interested to know the position and that the law, as expressed in his article, may possibly have to be modified.

Strand, W.C.2. Ernest Bevir & Son.
20th January.

[We thank our correspondents for their letter and will await the decision of the House of Lords with interest.—Ed., *Sol. J.*]

Notes of Cases.

Court of Appeal.

Boosey & Co. *v.* **Goodson Gramophone Record Co.**

Lord Hanworth, M.R., Lawrence and Romer, L.JJ.
21st January.

Copyright—Mechanical Reproduction of Music—Gramophone Records—Royalties—Adhesive Labels Purchased from Owner of Copyright—Labels capable of Adhering to Contrivances Sold—Copyright Act, 1911, 1 & 2 Geo. 5, c. 46, s. 1, sub-s. 2 (*d*); s. 19, sub-s. 2—Copyright Royalty System (Mechanical Musical Instruments) Regulations, 1912, cl. 4 (*a*), (*f*).

By the Copyright Act, 1911, s. 19 (2), a person may make music rolls, gramophone records, or other mechanical contrivances for reproducing music without infringing the copyright in that music of the owner, provided he gives the owner notice and pays the appropriate royalties. By the Copyright Royalty System (Mechanical Musical Instruments) Regulations, 1912, made by the Board of Trade under the Copyright Act, 1911, it was provided as follows:—

Payment of Royalties.

4. (*a*) Unless otherwise agreed, royalties shall be payable by means of adhesive labels purchased from the owner of the copyright and affixed in the manner provided by these Regulations.

After the person making the contrivances has given the prescribed notice of his intention to make or sell the contrivances, the owner of the copyright shall by writing, sent by registered post, intimate to him some reasonably convenient place within the United Kingsom from which adhesive labels can be obtained and on demand in writing and tender of the price shall supply from such place adhesive labels of the required denominations at a price equal to the amount of royalty represented thereby.

Subject to these regulations no contrivance shall be delivered to a purchaser until such label or labels denoting the amount of the royalty have been affixed thereto . . .

By cl. 4 (*f*) of those regulations the adhesive label supplied as aforesaid was to be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle and the side of the label not to be greater than ¾ inch in length.

The defendants in this action made records in respect of which the plaintiffs were entitled to royalties, and the plaintiffs supplied them with adhesive labels, but, owing to the records being made of celluloid, they could only be made to adhere to the records for a very short time. The defendants alleged that as the labels would not stick on they were entitled to sell records without them, and the plaintiffs brought a friendly action to restrain them.

EVE, J., thought that the onus was upon the plaintiffs to supply a label which would not become detached, and he dismissed the action. The plaintiffs appealed. The Court allowed the appeal.

Lord HANWORTH, M.R., said that those words "adhesive labels" must be looked at in their ordinary sense and taken to have the ordinary meaning. The plaintiffs' labels were stamps of a kind which complied with the regulations as to size, and as to the presence of adhesive matter on the reverse side, and they had adhered, and were known to have adhered, to many kinds of gramophone records during the last fifteen years. It seemed to him that the owners of copyright had not failed to supply the requisite labels unless the manufacturers of records could throw on them the duty to supply adhesive labels of such a kind as might be suitable for adhering to any substance of which the makers might choose to make the record, although they gave no notice of the fact that that substance was going to be used. The difficulty could probably be overcome with a little ingenuity, but he thought that there was no doubt as to the onus being on the makers of the record to bring themselves within the protection of s. 19 (2).

LAWRENCE and ROMER, L.JJ., delivered judgments to like effect.

COUNSEL: *Topham*, K.C., and *K. E. Shelley*, for the appellants; *Moritz*, K.C., and *Henn Collins*, for the respondents.

SOLICITORS: *Syrett & Sons*; *W. H. Speed & Co.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

E. Van Weyenbergh *v.* British Acetate Silk Corporation, Ltd.

Rowlatt, J. 24th January.

CONTRACT—WRONGFUL DISMISSAL—ALLEGED BREACH OF DUTY.

In this action the plaintiff, Emile Van Weyenbergh, claimed damages from the British Acetate Silk Corporation, Ltd., for alleged wrongful dismissal. The plaintiff pleaded that, by the terms of an agreement in writing contained in letters of the 15th May, 1928, he was appointed chemist and works manager to the defendants, at a salary of £1,500 a year, with provision for a subsequent increase. His employment was wrongfully terminated, he alleged, by a letter of the 5th December, 1928. By their defence the defendants said that in breach of the agreement the plaintiff had made alterations in the artificial silk production process, and, further, that he was not reasonably competent to perform the services for which he was engaged, and they counter-claimed in respect of damages alleged to have been incurred by reason of the plaintiff's alleged incompetence.

ROWLATT, J., after reviewing the evidence and correspondence, was of opinion that the plaintiff was competent to hold the position to which he was appointed, and at the most his failure to comply with instructions regarding process alterations warranted reprimanding and not dismissal. Judgment for the plaintiff for £4,500, with costs. A stay of execution was granted.

COUNSEL *G. D. Roberts and S. D'Arcy de Ferrars*, for the plaintiff; *Trevor Hunter*, K.C., and *Wilfrid Price*, for the defendants.

SOLICITORS *Peacock and Goddard*, for *Acton, Marriott, and Simpson*, Nottingham; *Herbert Smith and Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

The City of London Solicitors Company.

ANNUAL DINNER.

The annual dinner of the Company was held at the Mansion House on Thursday in last week, when the Master (Mr. E. J. Stannard) presided. The large number of distinguished guests present included The Rt. Hon. The Lord Mayor, The Rt. Hon. The Lord Sankey, His Excellency Count P. Ahlefeldt-Laurvig, the Danish Minister, The Rt. Hon. J. R. Clynes, Home Secretary, The Hon. Mr. Justice Eve, The Hon. Mr. Justice Avory, The Hon. Mr. Justice Clauson, C.B.E., The Hon. Mr. Justice Wright, Lieut.-Col. Lord Herbert Scott, C.M.G., D.S.O., President of the London Chamber of Commerce, Sir Roger Gregory, Vice-President of The Law Society, Viscount Erleigh, K.C., M.C., Captain Sir Burton Chadwick, M.P., R.N.R., Deputy-Master of the Hon. Company of Master Mariners, Ernest Hicks, Esq., Master of the Salters' Company, Sir William Plender, Bart., C.B.E., President of the Institute of Chartered Accountants, Mr. Alderman and Sheriff W. Phené Neal, Percy Hargreaves, Esq., Chairman of Lloyds, Mr. Sheriff Frank H. Bowater, John E. Parry, Esq., Chairman of the Baltic, Sir Thomas Hughes, K.C., Chairman of the General Council of the Bar, J. S. Stewart-Wallace, Esq., C.B., Chief Land Registrar, Sir David Murray, R.A., Sir Claud Schuster, G.C.B., C.V.O., K.C., Sir James Leigh-Wood, K.B.E., C.B., C.M.G., His Honour Judge Holman Gregory, K.C., His Honour Judge Barnard Lailey, K.C., A. T. Miller, Esq., K.C., Gavin T. Simonds, Esq., K.C., Clement Davies, Esq., K.C., M.P., Stuart J. Bevan, Esq., K.C., M.P., Hon. Counsel, Master W. Valentine Ball, O.B.E., Sir Albion Richardson, C.B.E., Sir John Pakeman, C.B.E., C.C., Sir John Rhodes, Bart., D.S.O., Sir G. William Barber, and Harald Faber, Esq., Danish Commissioner for Agriculture, A. F. Stallwood, Esq. (City Controller, Westminster), L. L. Whitfield, Esq., etc.

After the loyal toasts had been duly honoured, The MASTER proposed "The Rt. Hon. The Lord Mayor, the Sheriffs, and the Corporation of the City of London." This occasion, he said, marked the twenty-first anniversary of the incorporation of the Company. Thanks to the help and encouragement extended to it by the then Lord Mayor (Sir George Truscott), and subsequently by all his successors, the Company had attained its majority and was in a vigorous and flourishing condition. He was happy to say that the present Lord Mayor, Sir William Waterlow, was a qualified solicitor whose legal training had stood him in good stead in his very successful commercial and public career. He also welcomed Mr. Alderman and Sheriff Neal. One of the duties of the Lord Mayor was, he remarked, the chairmanship of the Committee of the City of London School, which had given many notable men to the legal profession, including the late Lord Oxford and Asquith and Mr. Justice Bailhache, whose names were held in honoured memory, and of those still living, Sir William Soulsby and Sir Edward Clarke. (Hear, hear.) He himself had been a scholar there. He therefore proposed the toast in a spirit of gratitude to the Lord Mayor, Sheriffs and Corporation, and to the members of the Court of Aldermen and of the Common Council, of the Sheriffs, whose services were the admiration of the civilised world, and expressed his appreciation of the privilege enjoyed by the Company in its use that evening of the Corporation's official home, with all its lustre and tradition. (Applause.)

The LORD MAYOR, in responding, thanked the Master and Members of the Company and assured them of their welcome. He had not realised before how many lawyers there were on the Corporation; this was the reason why the Corporation did its work so well. He was himself a member of the Company. He acknowledged the compliment to the City of London School. Another committee over which he had had the privilege of presiding had been the Law and City Courts Committee, when it had been considering the amalgamation of the City of London Court with the old Lord Mayor's Court. The amalgamation had been to the advantage of practitioners and citizens alike, and the appointment of Judge Holman Gregory to the Bench of the new Court had given the greatest satisfaction. (Applause.)

THE HOUSES OF PARLIAMENT.

Mr. F. M. GUEDALLA, the Senior Warden, then proposed the health of "The Houses of Parliament." He intended, he said, to take the anxious course of asking the Home Secretary to reply for the Lords and the Lord Chancellor for the Commons. This was in consequence of a recent amendment daringly proposed by Lord Darling and Lord Jessel to an Insurance Bill; the Cabinet had hastily met and reforms were to be instituted shortly by which any person who had been a Walking Stick or a Seal should be able to be leader of the

House or sit upon the Woolsack. Mr. Clynes, when his time came, would be as able a Lord Chancellor as any of his learned predecessors, and in view of the proposed reform, Mr. Guedalla was anxious to hear his opinion on the House of Lords. He suggested, moreover, that Lord Sankey should add to his experiences by being a member of the House of Commons while still Lord Chancellor. If, however, he wished, like his colleague in Ireland, to be debarred and become a solicitor, he would be most welcome among them, for they had long known him for a humane and cautious judge and lately as a wise and learned Lord Chancellor. (Applause.)

Lord SANKEY, in response, congratulated the Company on attaining years of discretion, but reminded it that it would be no longer able to plead infancy. He regretted that, having never been there, he was unable to reply for the House of Commons. He had had to conduct many hopeless defences, but none so hopeless as that. If he had undertaken it he would have advised the prisoner to plead guilty and would then have been happy to say a few words in mitigation of sentence. He would, however, make a few serious remarks about the House of Lords. During the last twelve months it had mourned the loss of Lord Finlay, Lord Phillimore and Lord Mersey. It had also lost the services of Lord Shaw and Lord Carson, but was happily able to wish them many more years of usefulness and prosperity. The House of Lords was well up to its work. The advent of the Labour Government had done wonders in quickening legislation, and in the eight months during which it had held office the House of Lords had passed several measures, in one of which it had abolished the speed limit. His party, however, was not over-represented in that House and there was little likelihood that the Lords, either in the House or out of it, would drive to the public danger. He congratulated the Incorporated Law Society and the Provincial Law Societies on their excellent work in connexion with poor prisoners' defences, and asked if the profession, as a whole, could do something both to reduce the cost of litigation and to ensure certainty among litigants as to what their costs would be; if this could be done litigation would be greatly encouraged. (Loud applause.)

Mr. CLYNES, also responding, remarked that he found his work as a Minister troublesome enough without having to reply for the House of Lords. In spite of its difficulties, however, the Government had been able to enjoy a great measure of public confidence and goodwill. (Hear, hear.) It owed much to the wisdom and personal friendship of the Lord Chancellor. The twenty-five years of the speaker's political experience had brought many changes, not the least of which was the rise of the three-party system. The Cabinet was made up of men and women in practically all walks of life and no charge could be levelled against its members of unfitness for their duties. If there were any blemish on the personnel of the Cabinet, it was that it contained no solicitors. As a whole, however, his party were not unacquainted with the law, for it contained perhaps a larger proportion of men who had been in prison than could be found in any other country in Europe. (Loud laughter.) Whatever their public activities had been in the past, they had in the main a wholehearted desire to advance the national good, and he thought they had the unanimous approval of the nation in the steps which were being taken in the Five Power Conference to carry into practical agreement the cause of peace which they all had at heart. At home, with the exception of two or three of the principal industries, trade was good and prosperous. International policy had to be framed with trade interests in view. The maintenance and expansion of the great exporting industries could only be achieved by arranging to produce goods within a price which foreign buyers were able to pay. The intervention for good or ill of the State in the services which had formerly been rendered by charitable institutions had led to a great change of outlook on the question of what an individual might expect from the State. He had even had a demand from the inmates of various prisons for the provision of electric light. This was, perhaps, an indication of that higher level of expectation which the Labour Government itself had created and which stood rather to the credit of mankind than against it. It was necessary that both Houses of Parliament should move in more perfect agreement towards the satisfaction of these more enlightened ideals. He joined with the Lord Chancellor in assuring his audience that the Government would not consciously do anything to the national disadvantage in respect either of the speed limit or of any other consideration of national welfare.

THE LEGAL PROFESSION.

Mr. PERCY D. BOTTERELL, in proposing this toast, commented on the unorthodoxy of having it proposed by a member of the profession, and explained that no layman could be found willing to undertake the work. Next year he proposed to substitute for it the toast of "Our Clients," though he was not sure than anyone would be found to respond to it. He regretted that the Solicitor-General, Sir James Melville, had been unable to come and respond, but welcomed Sir Thomas Hughes as a very excellent substitute. (Applause.)

Sir THOMAS HUGHES said that the relations between the two branches of the profession had never been more cordial and friendly. He proposed to take advantage of the presence of the Lord Chancellor and the Home Secretary to mention two matters which urgently required attention. While he could not agree with the Lord Chief Justice that all departments and officials of the government were desperately wicked, yet their tendency to govern by rules independently of Parliament constituted a threat to liberty almost as serious as that offered in olden times by the Throne. Secondly, the practice in litigation between the Crown and the subject was extremely unsatisfactory. The Crown, which of course meant Government departments, had great advantages over the subject and the practice was such a mystery that many subjects were afraid to embark upon it. It should be assimilated to the practice in ordinary litigation. He suggested that the Bill which had been prepared not long ago by a very strong committee should be brought from its pigeon-hole and carried into law. (Applause.)

Mr. J. H. N. ARMSTRONG (Junior Warden), in proposing the toast of "The Visitors," coupled with the name of the Danish Minister, dwelt on the closeness of the tie which bound the English and Danish races both in trade and in their common loyalty to the memory of our late Queen Alexandra. He hoped that the Danish Minister would accept the hearty welcome of the Company in place of the Danegeld which his forefathers had caused to be extracted from our unfortunate ancestors.

Count AHLEFELDT-LAURVIG, replying, spoke warmly of the services which the Master, himself a Danish knight, had rendered to his country. Moreover, he said, he was a bit of a lawyer himself. He had served for a year in a solicitor's office before he had taken up a diplomatic career, and when he had been Danish Minister in Peking his country had suddenly treated him as the only Danish jurist in the district, and he had been overwhelmed with cases concerned with marriage, divorce and similar matters. He had had on his desk volumes containing all the statutes of Denmark, but had chiefly relied on a small book called "Everyman's Own Lawyer," which he had kept in his drawer. He had, therefore, a great admiration for the real men of law who could handle the subject through a long life and still retain their serenity and kind disposition to their fellow-men. The solicitor was in the van of progress, for, just as disputes between individuals were now settled at law instead of by blows, so disputes between nations would in future be settled by lawyers and not by armies. (Applause.)

Mr. Justice EVE, in proposing "The City of London Solicitors Company," said that, if he had had his present opportunity in olden days he would have persisted in addressing the audience until he had satisfied them all that he was eminently equipped to receive any instruction or conduct any litigation which any of them happened to have. Intervening years had substituted for that potent incentive a sense of deep obligation, respect and regard towards the solicitors' profession. The efforts of the Company had been greatly appreciated by The Law Society and other public bodies and persons. We looked forward to its future, he said, with unbounded confidence. Whether or no the individual practitioner could contemplate the future in the same optimistic spirit was a little doubtful. The work in the courts, both in quality and quantity, reflected the continuance of depression in trade, and the unfortunate incidents due to extremely heavy taxation. Recovery from the one, as also relief from the other, seemed at the present moment to be in retreat, nor had he gathered any comfort from an intimation which he had read that the Legislature contemplated, as its first step towards securing that economy for which we all clamoured, a substantial advance in ministers' salaries all round. (Laughter and cheers.)

THE MASTER, in replying, voiced the sentiments of the Company towards their guests in the words of another lawyer, the charming lady who had successfully relieved Antonio from the super-exactions of Shylock: "He is well paid that is well satisfied . . . I pray you know me when we meet again; I wish you well, and so I take my leave."

WOMEN JUDGES.

The Minister of Justice, Dr. Meissner, announced in the Senate recently that Czechoslovakia proposes to create women judges.

Both the lack of suitable male candidates for the judiciary, said Dr. Meissner, as well as the absurdity of allowing women to become lawyers, but keeping them from the bench, were responsible for this decision.

In Parliament.

Progress of Bills.

House of Lords.

Road Traffic Bill [H.L.]. Read the third time and passed and sent to the Commons. [4th February.

Unemployment Insurance (No. 2) Bill. Commons amendments to Lords amendments agreed to. [5th February.

Consolidated Fund (No. 2) Bill. Remaining stages. [5th February.

House of Commons.

Canal Boats Bill. Read a Second time. [31st January.

Coal Mines [Money] (No. 2) Bill. Resolution reported and agreed to. [3rd February.

Consolidated Fund (No. 2) Bill. Read the Third time and passed. [3rd February.

Ministry of Health Provisional Orders Confirmation (No. 13) Bill [H.L.]. Read the Third time and passed. [3rd February.

Unemployment Insurance (No. 2) Bill. Amendment of Lords amendments agreed to. [4th February.

Questions to Ministers.

LAND NATIONALISATION.

Mr. MORLEY asked the Minister of Agriculture when he proposes to introduce a Bill for the nationalisation of agricultural land?

Mr. N. BUXTON: It is not proposed to introduce legislation on this subject during the present Session. [27th January.

LAND DRAINAGE.

Sir A. SINCLAIR asked the Secretary of State for Scotland when the particulars of the Government's land drainage scheme are going to be published; when application forms will be available for farmers who wish to apply for grants; and whether he will explain the reason for the delay?

Mr. W. ADAMSON: I hope that particulars of the scheme will be published and that application forms will be available in a very short time. There has been no avoidable delay. [28th January.

INTERNATIONAL CONFERENCE ON LOAD LINES.

In reply to a question by Mr. W. BROWN, Mr. W. GRAHAM said the composition of the United Kingdom Delegation at the International Conference on Load Lines of Merchant Ships has not yet been determined but is receiving the careful consideration which the importance of the subject demands. In accordance with practice, the instructions to be given to the United Kingdom Delegates will be confidential. [28th January.

ANNUAL RETURNS OF COMPANIES.

Mr. GRAHAM WHITE asked the President of the Board of Trade the present number of limited companies which have failed to make the annual return to the Registrar of Joint Stock Companies in accordance with the Companies Acts?

Mr. W. GRAHAM: At the present time there are thirty-eight cases outstanding of companies which are in default in filing their annual return under the Companies Acts. [28th January.

OFFENCES AGAINST CHILDREN.

Sir R. GOWER asked the Home Secretary whether he is aware that the Medway Board of Guardians has passed a resolution urging His Majesty's Government to institute legislation to enable local authorities to take proceedings under the Children's Act, 1908, against persons accused of certain offences against children notwithstanding the time that may have elapsed since the alleged commission of the offences; and if he proposes to take any, and, if so, what, action in the matter?

Mr. CLYNES: I have not seen the resolution referred to, and if the hon. Member will send me a copy, it will receive my careful consideration. [28th January.

CALENDAR REFORM.

Mr. FREEMAN asked the Home Secretary whether he will consider the desirability of introducing legislation to give effect to the recommendations of the Assembly of the League of Nations of 26th September, 1926, as to the reform of the calendar, and, in particular, of a fixed Easter?

Mr. CLYNES: The Easter Act, 1928, already provides for a fixed Easter. With regard to the wider subject of calendar reform the League of Nations has not, so far as I am aware, made any recommendations which could possibly form a basis for legislation. The resolution of the Assembly referred to in the question merely expressed the opinion that an examination of the subject was necessary before such reform could take place. [28th January.

CINEMATOGRAPH FILMS ACT.

Mr. WARDLAW-MILNE asked the President of the Board of Trade whether any representations have been made to him regarding the alleged necessity for amendments to the Cinematograph Films Act, 1927, particularly in regard to quota requirements; and whether the Government contemplate introducing any amending legislation on this subject?

Mr. W. GRAHAM: I have received representations in regard to the amendment of the Act in certain directions, but I can hold out no hope of fresh legislation in the near future. [28th January.

LAND VALUES (TAXATION).

Colonel HOWARD-BURY asked the Chancellor of the Exchequer when it is proposed to introduce a Bill to deal with the taxation of land values?

Mr. P. SNOWDEN: I must ask the hon. and gallant Member to await the Budget statement. [28th January.

MOTOR CARS (SPARE LAMPS).

Mr. D. G. SOMERVILLE asked the Minister of Transport if his attention has been called to the increasing number of accidents, fatal and otherwise, caused on the roads by motorists descending to attend to their vehicles and being run down by other motorists, especially when the lamps of the broken-down vehicles are at fault; and whether he will investigate these occurrences to see whether he can make any recommendations as to the carrying of alternative lamps for occasions of this nature?

Mr. HERBERT MORRISON: I have noted in the Press occasional reports of such accidents, but the information in my possession does not indicate any appreciable increase in their number. While it may be desirable that drivers of motor vehicles should carry spare lamps to be used in case of emergency, I see no sufficient reason at present for issuing any general recommendation in the matter. [29th January.

UNSTAMPED RECEIPTS.

Mr. DAY asked the Chancellor of the Exchequer whether he is aware of the constant evasion of the law requiring receipts to be stamped with a 2d. stamp on amounts exceeding £2; and what measures are being taken by his department to prevent this practice?

Mr. P. SNOWDEN: Cases where receipts which ought to have been stamped have been given without a stamp are brought from time to time to the notice of the Commissioners of Inland Revenue and suitable action by way of warning, pecuniary penalty or legal proceedings is taken by them in each case. [30th January.

EXTRADITION LAW.

Mr. D. G. SOMERVILLE asked the Secretary of State for Foreign Affairs if he proposes to reconsider the whole of the existing extradition treaties with foreign powers so as to enable the courts of justice in this country to deal with foreign subjects who are charged with offences against our law, and who, to avoid punishment, withdraw to their respective countries of origin?

Mr. DALTON: I would refer the hon. Member to the answer which my right hon. Friend gave yesterday in reply to a question on this subject by the hon. Member for Kingston-upon-Thames (Sir G. Penny). [30th January.

CHEMISTS TO APPOINT THEIR OWN ANALYSTS?

MINISTRY OF HEALTH DESPOTS.

When it was stated at a meeting of the Middlesex Insurance Committee at Westminster, on Monday, that the Ministry of Health had, more or less, agreed to the chemists appointing their own analysts, Mr. Kelland remarked that this was another instance of a Government department attempting to deprive a constituted authority, such as that committee, of its powers.

Mr. KELLAND advocated the appointment of an independent analyst. The committee adopted a recommendation on those lines.

Societies.

Gray's Inn.

MOOT: RESPONSIBILITY FOR PARROT'S BITE.

A Moot was held in Gray's Inn Hall, on Tuesday, the 28th ult., when Mr. Justice Acton presided. The following Masters of the Bench were present: Lord Justice Greer (Master of the Moots), Sir D. Plunket Barton, K.C., Mr. Bernard Campion, K.C., and Mr. F. Hinde.

The following appeal was argued:—

A nurse in charge of a child aged six takes her to the botanical gardens and menagerie of the Corporation of the town of X. At the entrance the nurse reads a notice saying that children under fifteen are not admitted unless they are in charge of a responsible adult. The nurse and child enter a winter garden, in which a number of parrots, cockatoos, and other birds are chained in a row. There is a notice which states: "Visitors must not touch or irritate the birds."

A keeper coming through and seeing the nurse and child, enters into conversation with them, and, lifting the child in his left arm, with his right hand scratches the head of one of the parrots, to amuse the child. This the keeper has for years been accustomed to do to this parrot, and he has never known the bird to be otherwise than quite gentle and docile with him.

The nurse, observing the keeper's actions, stretches out her hand towards the parrot, snapping her finger and thumb and saying, "Pretty Poll! Pretty Poll!" The bird, alarmed by the near approach of a strange hand and the sound of a strange voice, flutters screaming from its perch, and inflicts an injury with its beak upon one of the child's fingers. Blood poisoning ensuing necessitates amputation of the finger.

The child, by her father as next friend, brings an action against the Corporation of X.

The jury find:—

(1) That the keeper was negligent in lifting the child into a position within reach of the parrot's chain.

(2) That the nurse was negligent both (*a*) in suffering the keeper, without protest or objection, to lift the child into that position; and (*b*) in acting as she did towards the parrot.

(3) That without such negligence on the part of the nurse the child would not have been injured; and

(4) That when the nurse acted as she did towards the parrot no care on the part of the keeper could have prevented the injury to the child.

Upon these findings judgment is given for the defendants. The plaintiff appeals.

Mr. H. Edmund Davies and Mr. Keith K. Kirk appeared on behalf of the appellant; Mr. G. T. McInnes and Mr. G. N. England appeared for the respondent Corporation.

The President, in allowing the appeal, said that the case for the Corporation must rest upon the contention that the present case was within *Waite* v. *North Eastern Railway* (1858), Ell. Bl. and Ellis, 799. The true question was within what limits was the principle of identification to be confined. Those limits were not to be unduly extended. The present case was distinguishable from *Waite* v. *North Eastern Railway*. As soon as the keeper had taken the child into his arms and held her up towards the parrot so that the parrot was within striking distance of the child, the question of identification disappeared. The appeal would be allowed with costs, together with costs in the court below, and there would be a new trial.

United Law Society.

A meeting of the Society was held in the Middle Temple Common Room on Monday, the 3rd inst., Mr. H. W. Pritchard in the chair.

The House proceeded to discuss two motions dealing with alterations of the rules. Both these motions were lost.

The debate on the case down for discussion was not proceeded with owing to the lateness of the hour and to the fact that the case was *sub judice*.

NOTE.—We regret that, owing to pressure on our space, The Law Society's Report on "Poor Persons Procedure" is unavoidably held over till next week.

MIDLAND BANK LIMITED.

The Directors of the Midland Bank Limited have the pleasure to announce that they have elected Mr. Robert Alexander Murray, a Director of The Clydesdale Bank Limited, to a seat at their board.

Legal Notes and News.

Honours and Appointments.

The King has approved a recommendation of the Home Secretary that Mr. WILLIAM GEORGE EARENGEY, LL.D., barrister-at-law, be appointed Recorder of Tewkesbury, to succeed Mr. A. F. CLEMENTS, recently appointed a County Court Judge. Mr. Earengey was called by the Middle Temple in 1919.

The Right Hon. ANTONY BRUTUS BABINGTON, K.C., M.P., Attorney-General for Northern Ireland, has been elected an Honorary Bencher of the Middle Temple. Mr. Babington was called to the Bar in 1900 and was appointed Attorney-General in 1925.

The King has been pleased to appoint RAI BAHADUR JAI LAL to be one of the Judges of the High Court of Judicature at Lahore. This appointment constitutes an addition to the strength of the High Court.

Mr. W. H. WARHURST, LL.B., solicitor, Town Clerk of Accrington, has been appointed Clerk to the Accrington and Church Outfall Sewerage Board. Mr. Warhurst was admitted in 1920.

Mr. STEPHEN D. LISTER, solicitor, of the firm of Marshall, Shaw & Lister, of Huddersfield, has been appointed Clerk to the Linthwaite Urban District Council. Mr. Lister was admitted in 1914.

Mr. GEORGE AYNSLEY SMITH, Solicitor, who had for nearly thirty years held the post of Deputy Steward and Deputy Clerk of the Halmotes, at Durham, retired at the end of 1929. Sir Stanford Downing, Knight, Secretary and Steward of the Manors to the Ecclesiastical Commissioners for England, has appointed their Official Solicitor, Mr. HUGH DE BOCK PORTER, LL.B., to act as Deputy Steward and Deputy Clerk, in charge of the Durham Manorial Office, which will be under the local control of the Registrar, Mr. G. M. Sladden, 50, North Bailey, Durham, a member of the Commissioners' staff. Mr. de Bock Porter was admitted in 1893.

Mr. W. S. URQUHART, Solicitor, Forres, and Mr. T. R. MACKENZIE, Solicitor, Elgin, have been elected President and Vice-President respectively of the Society of Solicitors for Morayshire.

Mr. LESLIE PARK, Solicitor, Heckmondwike, having recently acquired a practice in Bristol, will be joined by Mr. ARNOLD KILBURN as a partner there. Mr. Park was admitted in 1920.

Mr. F. G. THURLOW, solicitor, Norwich, has been appointed Junior Assistant Solicitor in the Department of Mr. H. Christopher Davies, solicitor, Clerk of the Peace and Clerk of the Norfolk County Council. Mr. Thurlow was admitted in 1928.

Professional Partnerships Dissolved.

WALTER HOPE REINHARDT and ARTHUR HALSALL, solicitors, 47 and 48, Hamilton-square, Birkenhead (Reinhardt, Halsall and Co.), dissolved by mutual consent as from 31st December, 1929, from which date the said Walter Hope Reinhardt retires. The business will be carried on by Arthur Halsall, under the style or firm of "A. Halsall & Co."

JOHN GERARD COBB, THOMAS HUGH COBB, HALSEY JANSON, HAROLD FELLOWS PEARSON, HAROLD NEVIL SMART and RUSSELL ASQUITH WOODING, solicitors, 22, College-hill, in the City of London (Janson, Cobb, Pearson & Co.), dissolved by mutual consent as and from 31st December, 1929, so far as concerns Thomas Hugh Cobb, who retires from the firm. The business will continue to be carried on under the same firm name by the remaining partners.

TRINITY 1930 BAR EXAMINATION.

REVISED TIME TABLE.

It has been decided by the Council of Legal Education to change the dates and order of subjects originally announced for this Examination and to substitute a revised time-table for that given in the syllabus and the calendar issued by the Council.

Under the revised time-table this examination will begin on Saturday, 24th May, 1930, and candidates should enter their names on or before Friday, 9th May. Full particulars of the dates and order of the papers will be furnished on application to the Secretary to the Council of Legal Education, 15, Old Square, Lincoln's Inn, W.C.2.

KING EDWARD'S HOSPITAL FUND.

A new series of specially-conducted tours under the auspices of King Edward's Hospital Fund for London has been arranged to take place in February and March of this year. On Wednesday, 26th February, the visitors will be received at the Houses of Parliament, at 11 a.m., by the Earl of Donoughmore, K.P., P.C. (Chairman of Committees, the House of Lords). The party will also be accompanied by members of the House of Commons and by Mr. Thomas Wilson, Clerk of Works to the Houses of Parliament and Deputy Keeper, Westminster Hall. Similar visits will be paid later to the Foreign Office, India Office, and Home Office Industrial Museum. Full particulars and tickets (price 10s. for each occasion) can be obtained on application to the Secretary, King Edward's Hospital Fund for London, 7, Walbrook, E.C.4.

DOCTOR'S CERTIFICATE AS MEDICAL EVIDENCE.

Mr. Clarke Hall, the magistrate, at Old Street Police Court, addressing the inspector of police on duty recently, said he saw that a new regulation of the Commissioner had come into operation, under which a copy of the doctor's certificate in drunkenness cases should not come before the magistrate. It seemed to him, he said, that it would be rather a hardship on poor people, because he might have to insist upon the doctor being called time after time, and then either the police or the defendants would have to pay. Defendants in that part of London could not afford to pay doctors' fees. He had always simply used doctors' certificates in the interests of the defendants. He thought magistrates ought to have been consulted before a new order like that was given.

LEGAL & GENERAL ASSURANCE SOCIETY LIMITED.

Reduction in Life Insurance Rates.

The Legal & General Assurance Society Limited, of 10, Fleet-street, London, E.C.4, announce that substantial reductions have been made in their Life and Endowment Assurance rates, and are in force as from the 1st of February.

All the special features and privileges of the Society's contracts are retained.

Mr. Justice ROCHE ON "STERILISATION."

"There seems very little to be said for not sterilising or shutting up these feeble-minded people who are prone to this sort of thing," said Mr. Justice Roche, at Liverpool Assizes, on Monday, when he ordered John Anderson, twenty-nine, a labourer, of Walton, Liverpool, to be detained as a feeble-minded person in an institution.

The judge said that many people tended to think that the feeble-minded should be sterilised to prevent them having children. It might or might not be a good thing, although it was done in some States. Feeble-minded children were increasing because this sort of offence persisted.

Court Papers.

Supreme Court of Judicature.

Rota of Registrars in Attendance on

Date.	Emergency Rota.	Appeal Court No. 1	Mr. Justice Eve.	Mr. Justice Maugham.
M'nd'y, Feb. 10	Mr. Hicks Beach	Mr. Ritchie	Mr. Andrews	Mr. *Hicks Beach
Tuesday .. 11	Blaker	Andrews	*More	Andrews
Wednesday. 12	More	Jolly	*Hicks Beach	*More
Thursday . 13	Ritchie	Hicks Beach	*Andrews	Hicks Beach
Friday 14	Andrews	Blaker	More	*Andrews
Saturday .. 15	Jolly	More	Hicks Beach	More

Date.	Mr. Justice Bennett.	Mr. Justice Clauson.	Mr. Justice Luxmoore.	Mr. Justice Farwell.
M'nd'y, Feb. 10	Mr. More	Mr. Ritchie	Mr. Jolly	Mr. Blaker
Tuesday .. 11	Hicks Beach	*Blaker	Ritchie	*Jolly
Wednesday. 12	Andrews	Jolly	Blaker	*Ritchie
Thursday . 13	More	*Ritchie	Jolly	*Blaker
Friday 14	Hicks Beach	Blaker	Ritchie	*Jolly
Saturday .. 15	Andrews	Jolly	Blaker	Ritchie

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The Easter Vacation will commence on Friday, the 18th day of April, 1930, and terminate on Tuesday, the 22nd day of April, 1930, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (6th February, 1930) 4½% Next London Stock Exchange Settlement Thursday, 20th February, 1930.

	Middle Price 5th Feb.	Interest Yield. £ s. d.	Yield with Redemption. £ s. d.
English Government Securities.			
Consols 4% 1957 or after	83½	4 14 3	—
Consols 2½%	54	4 12 7	—
War Loan 5% 1929-47	101¼	4 18 9	—
War Loan 4½% 1925-45	95½	4 14 3	4 18 0
War Loan 4% (Tax free) 1929-42	101½	3 18 10	3 17 6
Funding 4% Loan 1960-1990	86½	4 12 6	4 13 6
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	93½	4 5 7	4 7 6
Conversion 4½% Loan 1940-44	96	4 13 9	4 17 6
Conversion 3½% Loan 1961	75½	4 13 4	—
Local Loans 3% Stock 1912 or after	62	4 16 9	—
Bank Stock	249½	4 16 5	—
India 4½% 1950-55	82½	5 9 1	5 16 0
India 3½%	60½	5 15 8	—
India 3%	51½	5 16 6	—
Sudan 4½% 1939-73	92	4 17 10	4 19 0
Sudan 4% 1974	83	4 16 5	4 19 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years)	82½	3 12 9	4 3 3
Colonial Securities.			
Canada 3% 1938	86	3 9 9	5 1 0
Cape of Good Hope 4% 1916-36	94	4 5 1	5 0 0
Cape of Good Hope 3½% 1929-49	81	4 6 5	5 0 0
Commonwealth of Australia 5% 1945-75	86½	5 15 7	5 17 0
Gold Coast 4½% 1956	92	4 17 10	5 1 0
Jamaica 4½% 1941-71	92	4 17 10	4 19 0
Natal 4% 1937	93	4 6 0	5 4 0
New South Wales 4½% 1935-45	79½	5 13 2	6 12 6
New South Wales 5% 1945-65	84½	5 19 9	6 1 8
New Zealand 4½% 1945	92	4 17 10	5 3 6
New Zealand 5% 1946	100	5 0 0	5 0 0
Queensland 5% 1940-60	86½	5 15 7	5 18 9
South Africa 5% 1945-75	100	5 0 0	5 0 0
South Australia 5% 1945-75	85½	5 17 0	5 18 4
Tasmania 5% 1945-75	87½	5 14 3	5 15 3
Victoria 5% 1945-75	85½	5 17 0	5 18 4
West Australia 5% 1945-75	85½	5 17 0	5 18 4
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	61	4 18 4	—
Birmingham 5% 1946-56	101	4 19 0	4 18 6
Cardiff 5% 1945-65	100	5 0 0	5 0 0
Croydon 3% 1940-60	70	4 5 9	4 18 9
Hull 3½% 1925-55	78	4 9 9	5 0 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	71	4 18 7	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52	4 16 2	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	62	4 16 9	—
Manchester 3% on or after 1941	61	4 18 4	—
Metropolitan Water Board 3% 'A' 1963-2003	62½	4 16 0	—
Metropolitan Water Board 3% 'B' 1934-2003	63	4 15 3	—
Middlesex C. C. 3½% 1927-47	82	4 5 4	5 1 0
Newcastle 3½% Irredeemable	70	5 0 0	—
Nottingham 3% Irredeemable	60	5 0 0	—
Stockton 5% 1946-66	99	5 1 0	5 1 6
Wolverhampton 5% 1946-56	100	5 0 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	79	5 1 3	—
Gt. Western Rly. 5% Rent Charge	96	5 4 2	—
Gt. Western Rly. 5% Preference	92	5 8 8	—
L. & N. E. Rly. 4% Debenture	76	5 5 3	—
L. & N. E. Rly. 4% 1st Guaranteed	74½	5 8 1	—
L. & N. E. Rly. 4% 1st Preference	67½	5 18 6	—
L. Mid. & Scot. Rly. 4% Debenture	77	5 3 11	—
L. Mid. & Scot. Rly. 4% Guaranteed	76½	5 4 7	—
L. Mid. & Scot. Rly. 4% Preference	71	5 12 8	—
Southern Railway 4% Debenture	77	5 3 11	—
Southern Railway 5% Guaranteed	96½	5 3 8	—
Southern Railway 5% Preference	89½	5 11 9	—

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